

## **CHAPTER NO. 303**

### **HOUSE BILL NO. 1277**

**By Representatives Fowlkes, Coleman, Eldridge, Cochran, Russell Johnson, Bunch**

**Substituted for: Senate Bill No. 752**

**By Senator Miller**

AN ACT to amend Tennessee Code Annotated, Title 35, Chapter 5 and Title 66, relative to property and instruments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 66-24-101, is amended by adding as new subsections (d) and (e) the following:

(d) Unless an instrument is acknowledged or proved, as provided in § 66-22-101 *et seq.* or other applicable law:

(1) The county register may refuse to register or note the instrument for registration; and

(2) If the instrument conveys any interest in real property, including any lien therein, no purchaser shall be required to accept delivery of the instrument. If, however, an instrument not so acknowledged or proved is otherwise validly registered, the instrument shall be deemed to be validly registered for the purposes of TCA §§ 66-26-102 and 66-26-103 and in full compliance with all statutory requirements set forth in TCA §66-22-101, and all interested parties shall be on constructive notice of the contents thereof.

(e) Subsection (d) hereof shall apply to all instruments of record on or after the effective date of this act. However, if the relative priorities of conflicting claims to real property were established at a time prior to such effective date, the law applicable to such claims at such time shall determine their priority.

SECTION 2. Tennessee Code Annotated, Section 66-26-103, is amended by deleting the words, "proved, or acknowledged and".

SECTION 3. Tennessee Code Annotated, Section 66-26-106, is amended by deleting the language "upon lawful authority; and the probate or acknowledgement shall be good, though the certificate has not been transferred to the registers book," and by substituting instead the language "properly acknowledged or proved, though the certificate of acknowledgement or probate has not been transferred to the registers book, and".

SECTION 4. Tennessee Code Annotated, Section 66-26-110, is amended by designating the existing language as subsection (a) and by adding as new subsections (b) and (c) the following:

(b) In an action with respect to an instrument, the authenticity of and authority to make each signature on the instrument is admitted unless specifically denied in the pleadings. If the validity of a signature is denied in the pleadings, and if the instrument is not registered or is not properly acknowledged or proved, the burden of establishing validity is on the person claiming validity, but the signature is presumed to be authentic and authorized unless:

(1) the signer is dead or incompetent at the time of trial on the issue of validity of the signature, and

(2) the instrument is unregistered or has been registered for less than twenty (20) years.

(c) Under the presumption set forth in subsection (b), the trier of fact must find that the signature is authentic and authorized unless evidence to the contrary is introduced.

SECTION 5. Tennessee Code Annotated, Section 66-26-113, is amended by adding the language, "or other instrument or the acknowledgement or probate thereof," between the language, "validity of the deed," and "but the same shall".

SECTION 6. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 19, 2005



JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES



JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 6<sup>th</sup> day of June 2005



PHIL BREDESEN, GOVERNOR